

ORIGINAL

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

In the Matter of)
) RM-9205
Amendment of Section 73.202(b)) MM Docket No. 97-246
Table of Allotments)
FM Broadcast Stations)
(Walla Walla, WA and Hermiston, OR))

To: Sharon P. Mc Donald,
Allocations Branch

RECEIVED
FEB 24 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF PETITIONER

Petitioner Mark Jacky Broadcasting ("MJB"), the licensee of KUJ (FM), Walla Walla, WA, hereby submits these Reply Comments in the referenced Rule Making proceeding.

The Petition for Rule Making proposed the substitution of channel 256C2 for channel 256C3 at Walla Walla, WA. ^{1/} To accommodate the upgrade, channel 258A would have to be substituted for channel 257A at Hermiston, OR (and KQFM's license would have to be modified accordingly). ^{2/}

In a Counterproposal filed February 7, 1998, Palouse Country, Inc. -- licensee of Station KZZL (FM), channel 258C1, Pull-

^{1/} When the Petition for Rule Making was filed in 1996, KUJ-FM was operating as a "Class A" FM facility. As a result of the FCC's October 23, 1997 grant of KUJ's one-step upgrade application (BMPH-961030IE) and of KUJ's construction of that upgraded facility, KUJ is currently operating as a C3 facility.

^{2/} Station KQFM does not oppose KUJ's proposal.

O+Y

man, WA -- proposed that the FCC substitute channel 258C for channel 258C1 at Pullman in order to "introduce first and second aural service to a significant area." ^{3/} Palouse's Counterproposal is, of course, mutually exclusive with Petitioner's proposal to substitute channel 258A for channel 257A at Hermiston, OR (in order to accommodate the upgrade of channel 256C3 to channel 256C2 at Walla Walla, WA.)

Without conceding the merits of Palouse's Counterproposal, Petitioner notes that granting KUJ (FM)'s proposal to substitute channel 256C2 for channel 256C3 at Walla Walla, WA is not inconsistent with the Counterproposal's suggested upgrade of channel 258C1 to 258C at Pullman, WA. As detailed in the attached Engineering Report, both requests can be accommodated if channel 263A is substituted for channel 257A at Hermiston, OR. See Exhibit 1. Such an allocation complies with the FCC's minimum spacing rules. See Exhibit 1 at Table III. ^{4/} Accordingly, Petitioner requests that the FM Table of Allotments be amended as follows:

	<u>Present</u>	<u>Proposed</u>
Walla Walla, WA	227C1, 239C 246C, 256C3 264C3, 265A	227C1, 239C 246C, 256C2 264C3, 265A
Hermiston, OR	257A	263A
Pullman, WA	249A, 258C1 282C1	249A, 258C 282C1

^{3/} See Counterproposal of Palouse at 1-2.

^{4/} In order to accommodate Petitioner's revised proposal, the FCC also should formally delete a 10-year-old Docket 87-90 upgrade specified for channel 264C3 at Walla Walla (for station KHSS) that was never implemented. See Exhibit 1 at Appendix A.

WHEREFORE, Petitioner respectfully requests that the FCC amend the FM Table of Allotments, 47 CFR 73.202(b), as requested above, in order that KUJ (FM)'s service and KZZL (FM)'s service can be expanded in the public interest.

Respectfully submitted,



Robert Lewis Thompson
TAYLOR THIEMANN & AITKEN, L.C.
908 King Street, Suite 300
Alexandria, VA 22314
(703) 836-9400

Counsel for Petitioner

February 24, 1998

cc: KQFM (FM)
Dom Monahans (Counsel for KZZL)

EXHIBIT 1

DECLARATION

ENGINEERING STATEMENT

Peter W. Lechman says that he is an engineer and President of Lechman & Johnson, Inc., Telecommunications Consultants, with offices located at 9049 Shady Grove Court, Gaithersburg, Maryland, and that his qualifications are a matter of record with the Federal Communications Commission.

That the firm of Lechman & Johnson, Inc. has been retained by Mark Jacky Broadcasting, licensee of KUJ-FM, Walla Walla, Washington to prepare this Engineering Statement in response to a counter proposal filed by Palouse County, Inc. ("Palouse") in MM Docket No. 97-246, RM 9205. Palouse proposes to upgrade its FM Station KZZL, Pullman, Washington from Channel 258C1 to Channel 258C. Palouse proposal's would conflict with KUJ-FM's upgrade proposal.

TABLE I is an FM channel study for 258C using the licensed transmitter site of KZZL, Pullman, Washington with facilities of 100 kW ERP at 600 meters HAAT. From this site, KZZL would be short-spaced to KKZX by 0.7 km. Also, KZZL would be short-spaced with the proposed change in channel for KQFM, Hermiston, Oregon from 257A to 258A. KZZL's proposed upgrade would not be short-spaced with KUJ-FM, Walla Walla, Washington's proposal to upgrade from Channel 256C3 to 256C2.

TABLE II is an FM channel study for 256C2 using the licensed transmitter site of KUJ-FM, Walla Walla, Washington as the point of origin. Channel 256C2 would be short-spaced to KQFM, Channel 257A, Hermiston, Oregon. However, its been proposed to change KQFM's Channel 257A to Channel 258A. There would not be a short-spacing with KZZL-FM, Pullman, Washington as a Class C1 or Class C.

For KUJ-FM and KZZL-FM proposals to be approved by the FCC, FM Station KQFM would need to change channels. Hermiston is the connection between these proposals.

TABLE III is the FM channel study for 263A using KQFM's transmitter site as its point of origin. As shown in this TABLE, Channel 263A can be assigned to Hermiston, Oregon in compliance with the Commission's Rules and Regulations without changing KQFM's licensed transmitter site. Therefore, KUJ-FM requests the change in the FM Table of Assignments as follows:

Lechman & Johnson, Inc.

**DECLARATION
ENGINEERING STATEMENT
Page Two**

<u>City/State</u>	<u>Present</u>	<u>Proposed</u>
Walla Walla, WA	227C1, 239C 246C, 256C3 264C3, 265A	227C1, 239C 246C, 256C2 264C3, 265A
Hermiston, OR	257A	263A
Pullman, WA	249A, 258C1 282C1	249A, 258C 282C1

TABLE III also shows that KHSS, holder at Construction Permit BPH-960828IE, Channel 264C3, would be allowed to upgrade to Class C2 status according to Docket No. 87-90. However, the FCC granted the upgrade November 30, 1987 with conditions that an application must be filed within 90 days of the release of the Docket. Ten years or so has passed without KHSS implementing the Class C2 facility in accordance with the requirements of Docket No. 87-90. Therefore, Mark Jacky Broadcasting requests that the upgrade be deleted to permit the upgrade of their proposal and Palouse proposal. Attached is a copy of Docket 87-90 as Appendix A.

The results of these studies shown that KZZL-FM and KUJ-FM can upgrade their stations Class of operation in Pullman and Walla Walla, respectively, with the changes in channel for KQFM, Hermiston, Oregon is consistent with the requirements of the Commission's Rules and Regulations.

I declare under penalty of perjury that the foregoing is true and correct.

LECHMAN & JOHNSON, INC.



Peter W. Lechman
Consulting Engineer
February 23, 1998

Lechman & Johnson, Inc.

TABLE I

***** FM CHANNEL STUDY NO. 1 -

LECHMAN & JOHNSON, INC. GAITHERSBURG, MARYLAND
LAST UPDATE: 980214

- 21-FEB-98 11:34:18 *****

KZZL	258 C	FM	POLARIZATION	ERP (KW)	HAAT	RCAMSL
PULLMAN WA	US			HOR PLN	BM TILT	(METER)
46.4052 116.5819 (D.MMSS)			HORIZONTAL	100.000	0.000	600.0
			VERTICAL	100.000	0.000	600.0

THE FOLLOWING CONTOURS ARE CALCULATED USING:

CALCULATED HAAT FROM TOPO DATA BASE

FRP= 100.000 (KW) 20.0 (DBK) HAAT= 600.0 (METERS)

INTERFERING DOMESTIC		DBU	KM	DBU	KM	AZIMUTH DEGREES	HAAT (METERS)	HAAT (FEET)	CONTOURS (KM)		
									70 DBU	60 DBU	58 DBU
						0.0	601.9	1974.6	67.7	91.9	96.8
CO CHANNEL	(40.0)	197.8	(38.0)	141.4		45.0	555.5	1822.5	65.7	89.9	94.7
1ST ADJACENT	(54.0)	136.6	(52.0)	69.5		90.0	616.3	2021.9	68.3	92.4	97.3
2ND ADJACENT	(80.0)	50.4	(78.0)	11.4		135.0	589.7	1934.6	67.3	91.4	96.3
3RD ADJACENT	(100.0)	13.7	(98.0)	3.5		180.0	568.2	1864.3	66.3	90.5	95.3
						225.0	579.0	1899.7	66.8	91.0	95.8
PROTECTED	(60.0)	91.8	(58.0)	96.7		270.0	646.7	2121.6	69.5	93.6	98.6
						315.0	642.7	2108.7	69.3	93.4	98.5
CITY GRADE	(70.0)	67.7				AVERAGE	600.0	1968.5	67.7	91.8	96.7

EST SITE ELEVATION : 1048.3 m.; 3439.2 ft.

EST RAD CENTER AGL : 397.8 m.; 1305.3 ft.

RAD CENTER A.M.S.L.: 1446.1 m.; 4744.4 ft.

THE CANADIAN BORDER IS 257.8 KM ON A BEARING OF 0.0 DEG. TRUE

AZIMUTH						LAT		LONG		ERP (KW)		HAAT D I-CON P-CON		IR		IC REZLT	
FROM	TO	CALL	STS	FILE NUMBER	CITY	ST C	(D.MMSS)	REL	CHN	HORZ	VERT	(M)	A F5010	F5050	DIST	RSEP	RSEP IR IC
												(KM)	(KM)	(KM)	(KM)	(KM)	
186.3	6.2	KLHSM	LIC	BLEDB31128AA	Lewiston	ID A	46.2438	117.0054	IF	205A	.155H	V	-246		30.3	29.	C
346.5	166.3	KKZX	LIC	BLH850910KA	Spokane	WA A	47.3535	117.1746	3RD	255C	100.B100.B	492		104.3	105.	S	
230.9	50.1	KUJFM	ADD	RM9205	Walla Wal	WA A	45.5938	118.1047	2ND	256C2	H	V			120.3	105.	
DOCKET97-246 **																	
230.9	50.1	KUJFM	LIC	BLH971124KJ	Walla Wal	WA A	45.5938	118.1047	2ND	256C3	2.10H2.10V	343			120.3	96.	
230.9	50.1	KUJFM	DEL	RM9205	Walla Wal	WA A	45.5938	118.1047	2ND	256C3	H	V			120.3	96.	
DOCKET97-246 **																	
244.1	62.4	KQFM	DEL	RM9205	Hermiston	OR A	45.5157	119.1845	1ST	257A	H	V	0		201.9	165.	
DOCKET97-246 **																	
244.1	62.4	KQFM	LIC	BLH870721KA	Hermiston	OR A	45.5157	119.1845	1ST	257A	3.00H3.00V	91			201.9	165.	
244.1	62.4	KQFM	ADD	RM9205	Hermiston	OR A	45.5157	119.1845	CO	258A	H	V	0		201.9	226.	S
285.6	103.9	KBSNFM	LIC	BLH801112AJ	Moses Lak	WA A	47.0554	119.1747	1ST	257A	3.00H3.00V	61			183.1	165.	
171.3	351.7	KWEIFM	LIC	BLH940629KB	Fruitland	ID A	44.0058	116.2415	CO	258C1	8.H 8.V	803			299.5	270.	
86.7	270.3	KBLLFM	LIC	BLH841107KK	Helena	MT A	46.4612	112.0122	CO	258C1	30.0H30.0V	241			378.5	270.	
0.0	0.0	KZZLFM	LIC	BLH950810KD	Pullman	WA A	46.4052	116.5819	CO	258C1	81B 81B	323			0.0	270.	-
288.4	106.0	KXAA	LIC	BLH970616KD	Rock Isla	WA A	47.2252	120.1715	CO	258A	5.3H 5.3V	-24D			263.8	226.	
288.4	106.0	KXAA	LIC	BMLH920626KA	Rock Isla	WA A	47.2252	120.1715	CO	258A	5.0H 5.0V	-50			263.8	226.	
13.3	193.9		VAC		Yahk	BC C	49.0456	116.0615	CO	258A	H	V	0		274.7	242.	
332.8	151.5		VAC		Midway	BC C	49.0009	118.4753	CO	258A	H	V	0		292.0	242.	
267.7	85.2	KHHK	LIC	BLH960410KA	Yakima	WA A	46.3153	120.2658	1ST	259C3	7.6H 7.6V	178			266.9	176.	
355.6	175.5	KXLYFM	LIC	BLH901129KA	Spokane	WA A	47.5518	117.0648	2ND	260C	37.H 37.V	914			138.3	105.	

TABLE 11

***** FM CHANNEL STUDY NO. 2 - LECHMAN & JOHNSON, INC. GAITHERSBURG, MARYLAND - 21-FEB-98 11:34:44 *****
 ***** LAST UPDATE: 980214 *****

KUJ	256 C2	FM	POLARIZATION	ERP (KW)	HAAT	RCMSL
WALLA WALLA WA	US			HDR FLN	BM TILT	(METER)
45.5938 118.1047 (D.MMSS)			HORIZONTAL	50.000	0.000	150.0
			VERTICAL	50.000	0.000	150.0

THE FOLLOWING CONTOURS ARE CALCULATED USING:

CALCULATED HAAT FROM TOPO DATA BASE

ERP= 50.000 (KW) 17.0 (DBK) HAAT= 150.0 (METERS)

INTERFERING	DOMESTIC	AZIMUTH	HAAT	HAAT	CONTOURS (KM)
	DBU KM	DEGREES	(METERS)	(FEET)	70 DBU 60 DBU
CO CHANNEL (40.0)	137.7	0.0	351.2	1152.3	47.0 69.1
1ST ADJACENT (54.0)	78.1	45.0	18.2	59.6	15.0 26.5
2ND ADJACENT (80.0)	19.9	90.0	-45.6	-149.7	15.0 26.5
3RD ADJACENT (100.0)	6.0	135.0	-379.0	-1243.5	15.0 26.5
		180.0	-73.3	-240.4	15.0 26.5
		225.0	310.3	1018.1	44.5 66.2
PROTECTED (60.0)	52.2	270.0	522.3	1713.6	56.6 81.0
		315.0	495.9	1626.9	55.1 79.4
CITY GRADE (70.0)	32.6	AVERAGE	150.0	492.1	32.6 52.2

EST SITE ELEVATION : 941.5 m.; 3088.9 ft.

EST RAD CENTER AGL : -72.1 m.; -236.7 ft.

RAD CENTER A.M.S.L.: 869.3 m.; 2852.2 ft.

WARNING THE ANTENNA IS UNDERGROUND!!! ***

THE GROUND LEVEL ABOVE MEAN SEA LEVEL IS 941.5 METERS

WHILE THE RADIATION CENTER ABOVE MEAN SEA LEVEL IS ONLY 869.3 METERS

THE CANADIAN BORDER IS 334.2 KM ON A BEARING OF 0.0 DEG. TRUE

AZIMUTH	LAT	LONG	ERP (KW)	HAAT	D I-CON	P-CON	IR	IC	REZLT	
FROM TO CALL STS	FILE NUMBER	CITY	ST C	(D.MMSS)	REL CHN	HORZ VERT	(M)	A F5010 F5050	DIST RSEP RSEP IR IC	
								(KM) (KM) (KM) (KM) (KM)		
195.6 15.6 KLR	CP	BPED950222MA	Milton-Fr	OR A	45.4712 118.1546	IF 203C2	12.H 12.V	177	23.9 20.	C
159.9 340.1 KUBQ	LIC	BLH930909KB	La Grande	OR A	45.2626 117.5331	2ND 254C2	2.25H2.25V	592	65.5 58.	C
20.4 201.0 KKZX	LIC	BLH850910KA	Spokane	WA A	47.3535 117.1746	1ST 255C	100.B100.B	492	190.1 188.	C
143.6 325.6 KTFZ	LIC	BLH971106KE	Mountain	ID A	43.1443 115.2612	CO 256C	80.B 80.B	668	375.1 249.	
0.0 0.0 KUJFM	ADD	RH9205	Walla Wal	WA A	45.5938 118.1047	CO 256C2	H V		0.0 190.	S
								DOCKET97-246	**	
0.0 0.0 KUJFM	LIC	BLH971124KJ	Walla Wal	WA A	45.5938 118.1047	CO 256C3	2.10H2.10V	343	0.0 177.	S
0.0 0.0 KUJFM	DEL	RH9205	Walla Wal	WA A	45.5938 118.1047	CO 256C3	H V		0.0 177.	S
								DOCKET97-246	**	
261.2 80.4 KQFM	DEL	RH9205	Hermiston	OR A	45.5157 119.1845	1ST 257A	H V	0	89.0 106.	S
								DOCKET97-246	**	
261.2 80.4 KQFM	LIC	BLH870721KA	Hermiston	OR A	45.5157 119.1845	1ST 257A	3.00H3.00V	91	89.0 106.	S
261.2 80.4 KQFM	ADD	RH9205	Hermiston	OR A	45.5157 119.1845	2ND 258A	H V	0	89.0 55.	
325.6 144.8 KBSNFM	LIC	BLH801112AJ	Moses Lak	WA A	47.0554 119.1747	1ST 257A	3.00H3.00V	61	149.7 106.	
50.1 230.9 KZZLFM	LIC	BLH950810KD	Pullman	WA A	46.4052 116.5819	2ND 258C1	81B 81B	323	120.3 79.	
50.1 230.9 KZZLFM	PROPOSED	PULLMAN	PULLMAN	WA A	46.4052 116.5819	2ND 258C	100 100	600	120.3 105.	*****

TABLE III

***** FM CHANNEL STUDY NO. 1 -

LECHMAN & JOHNSON, INC. GAITHERSBURG, MARYLAND
LAST UPDATE: 980214

- 21-FEB-98 12:20:15 *****

KQFM	263 A	FM	POLARIZATION	ERP (KW)	HAAT	RCAMSL
HERMISTON OR US				HOR PLN	BM TILT	(METER)
45.5157 119.1845 (D.MKSS)			HORIZONTAL	6.000	0.000	100.0
			VERTICAL	6.000	0.000	100.0

THE FOLLOWING CONTOURS ARE CALCULATED USING:

CALCULATED HAAT FROM TOPO DATA BASE

ERP= 6.000 (KW) 7.8 (DBK) HAAT= 100.0 (METERS)

INTERFERING	DOMESTIC	
	DBU	KM
CD CHANNEL (40.0)		86.7
1ST ADJACENT (54.0)		43.7
2ND ADJACENT (80.0)		9.1
3RD ADJACENT (100.0)		2.8
PROTECTED (60.0)		28.3
CITY GRADE (70.0)		16.2

AZIMUTH DEGREES	HAAT (METERS)	HAAT (FEET)	CONTOURS (KM)	
			70 DBU	60 DBU
0.0	82.5	270.8	14.5	25.8
45.0	107.2	351.6	16.8	29.2
90.0	94.5	310.1	15.6	27.6
135.0	76.1	249.6	13.9	24.9
180.0	100.0	328.1	16.2	28.3
225.0	96.2	315.5	15.8	27.8
270.0	110.0	360.7	17.1	29.6
315.0	133.6	438.2	18.9	32.2
AVERAGE	100.0	328.1	16.2	28.3

EST SITE ELEVATION : 137.8 m.; 452.0 ft.
EST RAD CENTER AGL : 133.6 m.; 438.3 ft.
RAD CENTER A.M.S.L.: 271.4 m.; 890.3 ft.

 THE CANADIAN BORDER IS 348.5 KM ON A BEARING OF 0.0 DEG. TRUE

AZIMUTH						LAT	LONG	ERP (KW)		HAAT	D	I-CON	P-CON	IR	IC	REZLT					
FROM	TO	CALL	STS	FILE NUMBER	CITY	ST C	(D.MSS)	REL	CHN	HORZ	VERT	(M)	A	F5010	F5050	DIST	RSEP	RSEP	IR	IC	REZLT
													(KM)	(KM)	(KM)	(KM)	(KM)				
2.3	182.3	KWIOFM	LIC	BLH830627AB	Moses Lak	WA	A 47.0609	119.1426	1ST	262C1	100.0	1100.0	59			137.6	133.			C	
81.1	261.9	KHSS	CP	BPH960828IE	Walla Wal	WA	A 45.5904	118.1008	1ST	264C3	1.3H	1.3V	419			89.7	89.			C	
73.0	253.7	KHSS	LIC	BLH861126KF	Walla Wal	WA	A 46.0404	118.2021	2ND	265A	3.00H	3.00V	-4			78.7	31.				
COMMENTTO channel 264C2 per D87-90. *To Channel 264C3 per CP BPH-88																					
316.8	136.5	KARYFM	LIC	BMLH910207KA	Grandview	WA	A 46.1403	119.4849	2ND	265A	6.0H	6.0V	-28			56.4	31.				
322.6	142.1	KARYFM	CP	BMPH960514IA	Grandview	WA	A 46.2912	120.0012	2ND	265C2	6.9H	6.9V	387			87.2	55.				

APPENDIX A

Lechman & Johnson, Inc.

::::: *** DKT/RM: 87-90 *** :::::

- 03/13/87 - NOTICE OF PROPOSED RULE MAKING ADOPTED BY THE CHIEF, ALLOCATIONS BRANCH POLICY AND RULES DIVISION DIRECTING THAT INTERESTED PARTIES MAY FILE COMMENTS ON OR BEFORE 06/05/87, AND REPLY COMMENTS ON OR BEFORE 06/22/87; FOR FURTHER INFORMATION CONTACT PATRICIA RAWLINGS, MASS MEDIA BUREAU, (202) 634-6530. (DA 87-410) RELEASED: 04/17/87 MVI
- 06/04/87 - COMMENTS FILED BY JEFFREY D. SOUTHMAYD AND STEPHEN C. SIMPSON, ATTORNEYS FOR BLANCHE MARIE HODGINS. WEG
- 09/25/87 - REPORT AND ORDER ADOPTED BY CHIEF, ALLOCATIONS BRANCH DIRECTING THAT EFFECTIVE 11/30/87 THE FM TABLE OF ALLOTMENTS IS AMENDED FOR THE COMMUNITY LISTED BELOW, TO READ AS FOLLOWS:

CITY

CHANNEL NO.

WALLA WALLA, WA

227C1,239C,246C,264C2

THAT THE CONSTRUCTION PERMIT OF STATION KHSS(FM), WALLA WALLA,, WASHINGTON, IS MODIFIED, TO SPECIFY OPERATION ON CHANNEL 264C2 IN LIEU OF CHANNEL 265A, SUBJECT TO THE FOLLOWING CONDITIONS:

(A) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS ORDER, THE LICENSEE SHALL SUBMIT TO THE COMMISSION A MINOR CHANGE APPLICATION FOR A CONSTRUCTION PERMIT (FCC FORM 301) SPECIFYING THE NEW FACILITIES;

(B) UPON GRANT OF THE CONSTRUCTION PERMIT, PROGRAM TESTS MAY BE CONDUCTED IN ACCORDANCE WITH SECTION 73.1620; AND

(C) NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO AUTHORIZE A CHANGE IN TRANSMITTER LOCATION OR TO AVOID THE NECESSITY OF FILING AN ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO SECTION 1.1301 OF THE COMMISSION'S RULES;

THAT THIS PROCEEDING IS TERMINATED; THAT FOR FURTHER INFORMATION CONTACT PATRICIA RAWLINGS, MM BUREAU, (202) 634-6530. (DA 87-1450) REL. 10/14/87 WEG

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-90

In the Matter of

Amendment of §73.202(b).
Table of Allotments.
FM Broadcast Stations.
(Walla Walla, Washington)

RM-5637

NOTICE OF PROPOSED RULE MAKING

Adopted: March 13, 1987;

Released: April 17, 1987

By the Chief, Allocations Branch:

1. The Commission has before it for consideration a petition for rule making filed by Blanche Marie Hodgins ("petitioner"), permittee of Station KHSS(FM), Channel 265A, Walla Walla, Washington, proposing the substitution of Channel 264C2 for Channel 265A at Walla Walla and modification of her construction permit to specify operation on Channel 264C2. Petitioner submitted information in support of the proposal and states that the upgrade would provide a substantially enhanced local FM broadcast service.

2. The substitution can be made in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.0 kilometers (11.8 miles) southwest of Walla Walla in order to avoid short spacing to an application for Channel 264 at Wallace, Idaho.

3. In accordance with our established policy, we shall propose to modify the permit of Station KHSS(FM) to specify operation on Channel 264C2. Pursuant to §1.420(g) we shall not accept competing expressions of interest nor require that the petitioner demonstrate the availability of an additional equivalent channel. See *Modification of FM Broadcast Licenses to Higher Class Co-Channel or Adjacent Channels*, MM Docket No. 85-313, 51 FR 20290, June 4, 1986.

4. Accordingly, in order to provide Walla Walla with its fourth wide coverage FM station, the Commission proposes to amend the FM Table of Allotments, §73.202(b) of the Rules, with regard to the community listed below, as follows:

City	Present	Proposed
Walla Walla,	227, 265A	227, 264C2
Washington	239, 246	239, 246

5. IT IS ORDERED, That the Secretary of the Commission SHALL SEND a copy of this Notice by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to John W. Kendrick, 906 McKinlay Avenue, Kellogg, ID 83837.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

7. Interested parties may file comments on or before June 5, 1987, and reply comments on or before June 22, 1987, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Jeffrey D. Southmayd, Esquire
Southmayd, Powell & Taylor
1764 Church Street, N.W.
Washington, D. C. 20036
(Counsel for petitioner)

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202 (b), 73.504 and 73.606 (b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

9. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Mark N. Lipp
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b)

of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cui-off Procedures.* The following procedures will govern the consideration of filings in this proceeding. (a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.) (b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket. (c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.